

April 25, 2024

TO: County Personnel Policy Board Members
SUBJECT: Personnel Policy Board Meeting
Thursday, May 2, 2024
1:30 p.m., Commissioners Hearing Room
County-City Building, Room 112

A G E N D A

ITEM 1: Approve Minutes from the April 4, 2024 meeting.

ITEM 2: Request to create the following classification:

<u>CLASS CODE</u>	<u>CLASS TITLE</u>	<u>PAY GRADE</u>
9744	Licensed Alcohol and Drug Counselor	C08 (\$49,474.36 - \$63,727.04)

ITEM 3: Request to amend County Rule 18.4 – Qualification for Holiday Pay

ITEM 4: Request to amend County Rule 19.10 – Absence Without Leave

ITEM 5: Request to amend Human Resource Policy Bulletin – Election of Personnel Policy Board Members by Classified Employees

ITEM 6: Request for appeal hearing – FOP# 32 - Carrie Hutsell - Suspension - Corrections.

ITEM 7: Election of Chair

ITEM 8: Election of Vice-Chair

ITEM 9: Miscellaneous Discussion

pc: Jeff Kilpatrick
Union Presidents
Barb McIntyre
Tom McCarty
Ashley Bohnet
Kristy Bauer
Carrie Hutsell
Susan McKenzie

LANCASTER COUNTY
LICENSED ALCOHOL AND DRUG COUNSELOR

NATURE OF WORK

This is professional human service work in a community mental health and substance use program utilizing counseling and therapeutic techniques to assist clients in the treatment of their substance use disorder.

Work involves providing direct client counseling services; individual or group client counseling services utilizing a variety of treatment methods tailored to meet each individual client's needs; contacting social service agencies within the community and referring clients requiring assistance to those agencies; performing initial client evaluation interviews; independently determining substance use disorder and treatment methodology with subsequent review and confirmation; maintaining appropriate client records reflecting treatment provided and client progress; preparing reports as needed for agency and court review; and coordinating, instructing, and supervising the treatment program with other staff members, including student interns and volunteers, and with community agencies.

EXAMPLES OF WORK PERFORMED

Provides individual or group client counseling services utilizing the Matrix Intensive Outpatient Treatment approach to meet each individual client's recovery needs.

Contacts social service agencies within the community and refers clients requiring assistance to those agencies.

Plans and implements group educational sessions for clients to improve social skills, develop recovery capital, and the development of a relapse prevention plan.

Performs initial client evaluation interviews and participates in a multi-disciplinary assessment team.

Maintains appropriate client records reflecting treatment provided and client progress; prepares reports as needed for agency and court review.

Performs related work as required.

DESIRABLE KNOWLEDGE, ABILITIES, AND SKILLS

Knowledge of the principles, practices, and methods pertaining to the delivery of substance use services to clients.

Knowledge of the sociological, behavioral, and cultural factors influencing the behavior and attitudes of clients.

Knowledge of the functions and services of community organizations and related human services.

Ability to establish and maintain effective working relationships with clients, co-workers and the general public.

Ability to communicate effectively both orally and in writing.

Ability to understand and relate to the problems and needs of clients.

Ability to maintain records of services provided and client progress.

MINIMUM QUALIFICATIONS

Associate degree with major coursework in social work, psychology, sociology, counseling or related field plus two years of experience counseling clients in a social service or behavioral health treatment program or any equivalent combination of training and experience that provides the desirable knowledge, abilities and skills.

NECESSARY SPECIAL REQUIREMENTS

Possession of a Licensed Alcohol and Drug Counselor (LADC) credential or Provisionally Licensed Alcohol and Drug Counselor (PLADC) credential.

05/24

PS9744

18.4 Qualification for Holiday Pay

Compensation for Absence on Holidays (Revised 04/225/24)

- (a) In order to qualify for holiday pay, an employee must be in a pay status ~~for his normal or regularly scheduled hours~~ on ~~his~~their regular work-day immediately before and after the holiday.
- (b) Any holiday enumerated in Rule 18.1, if falling within a vacation period, shall be paid as holiday and not counted as vacation.
- (c) Temporary, seasonal, on-call, and emergency non-shift employees, whether full-time or part-time, who are not scheduled to work on a day designated as an authorized holiday shall receive no holiday pay.

<https://linclanc.sharepoint.com/sites/HRHRIS/Shared Documents/General/HRIS/Rules/RULE 18 - HOLIDAYS 18 - leg 2.2024.docx>

19.10 Absence Without Leave (Revised ~~06/2005~~/2024)

Any unauthorized absence of an employee from duty shall be deemed to be an absence without pay and may be made grounds for disciplinary action by the Department Head. If an employee is absent for three (3) or more days without authorized ~~leave, leave~~, the employee shall be deemed to have abandoned ~~their~~~~is or her~~ job. Such absence shall be considered a voluntary resignation, and the employee is not eligible for rehire. Such absence may be excused, however, by the Department Head by a subsequent grant of leave with or without pay where extenuating circumstances are found to have existed.

Reference:	Title:
Lancaster County Rules Appendix, Nebraska Revised Statutes, Sec. 23-2521 (2) Personnel policy board; members; qualifications; appointment; term; removal; chairperson; meetings; quorum. Super cedes Personnel Policy Bulletin 2005-1, 2020-5	Election of Personnel Policy Board Members by Classified Employees

(1) Definitions:

Classified employees who comprise all positions not specifically included in the unclassified service.

Personnel Policy Board Members are persons in sympathy with the application of merit principles to public employment and who are not otherwise employed by the County. No member shall hold during ~~his or her~~ [their](#) term, or shall have held for a period of one year prior thereto, any political office or a position as officer or employee of a political organization.

Term of appointment: Each member shall be appointed in the same manner for a term of five years, except that any person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed in the same manner for the remainder of the term. Each member of the board shall hold office until ~~his or her~~ [their](#) successor is appointed and qualified.

(2) Nomination Procedure

- a) The Presidents of the bargaining units for classified employees and ~~the Chairperson of~~ the Employee Advisory ~~Team Roundtable~~ will be notified when a vacancy exists of a Personnel Policy Board position which would be appointed by the classified employees. For purposes of the nomination process, the Employee Advisory ~~Team Roundtable~~ shall represent the opinions of only those employees who are unrepresented, classified employees. The opinions of classified employees represented by either of the bargaining units shall be presented by the bargaining unit's President. These individuals will meet and submit, in writing, names to the ~~Personnel Human Resources~~ Director to be placed onto the official ballot by a pre-established

Reference:	Title:
Lancaster County Rules Appendix, Nebraska Revised Statutes, Sec. 23-2521 (2) Personnel policy board; members; qualifications; appointment; term; removal; chairperson; meetings; quorum. Super cedes Personnel Policy Bulletin 2005-12020-5	Election of Personnel Policy Board Members by Classified Employees

deadline. Before a name is placed on a ballot, the individual to be nominated should be contacted by the nominator to insure they are interested and willing to accept the appointment, if elected.

- b) The ~~Personnel~~ Human Resources Director will establish an official ballot, placing on that ballot the names submitted by the predetermined deadline, with a brief description of the candidate's qualifications. A deadline for voting will be noted. The Lancaster County Election Commissioner or ~~his~~ designee will initial each official ballot. Ballots submitted which do not bear such initials, or appear to be photocopied, will not be counted.

(3) Election Procedure

- a) The Lancaster County Election Commissioner will oversee the election process and certify the results of the election. A majority of votes received will constitute the winner.
- b) Each classified employee will receive a ballot. The ~~Personnel~~ Human Resources Department will generate labels to be used to send the ballot to employees via interoffice mail.
- c) Each ballot will have a deadline date and time. All ballots received after the deadline will not be counted. The voting process will be completed within a two-week period.
- d) Each ballot will be sent out with a return interoffice envelope that is addressed to the Lancaster County Election Commissioner. Where possible, the ballots will be sent and returned via interoffice mail.
- e) The cost of supplies to conduct the election will be paid by the Lancaster County Board of Commissioners.
- f) Upon receiving certified election results from the Lancaster County Election Commissioner, the ~~Personnel~~ Human Resources Director will publish the results to the individuals on the ballot, to the President of the classified unions and ~~the Chair of~~ the Employee Advisory Team Roundtable, the Lancaster County Board of Commissioners, and Lancaster County Department Agency

**Human Resources Policy Bulletin
Lancaster County**

Number: 2024-10-5

Date:

June, 2020 May 2024

Reference:	Title:
Lancaster County Rules Appendix, Nebraska Revised Statutes, Sec. 23-2521 (2) Personnel policy board; members; qualifications; appointment; term; removal; chairperson; meetings; quorum. Super cedes Personnel Policy Bulletin <u>2005-12020-5</u>	Election of Personnel Policy Board Members by Classified Employees

Heads. Thirty (30) days following a certified election, the ballots will be destroyed.

- g) The effective date of the appointment will be the first Personnel Policy Board Meeting following the expiration of the term of office; or the first Personnel Policy Board Meeting following the election if the term has already expired or in the event of a resignation.
- h) A sample ballot is attached for reference.

Don Taute, Personnel Director
Barb McIntyre, Human Resources Director

Date

Larry Hudkins, Chair
Sean Flowerday, Chair
Board of County Commissioners

Date

**LANCASTER COUNTY
SAMPLE PERSONNEL POLICY BOARD BALLOT**

The Lancaster County Personnel Policy Board is a ~~six-five~~-member board that reviews employee grievances and disciplinary appeals, and recommends personnel rule changes and amendments to the ~~Personnel~~Human Resources Department and County Board. Pursuant to state law, classified employees appoint two members to the Personnel Policy Board to serve five-year terms. One of these terms has expired and the County Board has agreed to sponsor a county-wide election to give all classified employees the opportunity to vote for the appointment.

Listed below are two individuals that have been nominated by ~~AFSCME, Local 2468, FOP, Lodge 32 I.B.E.W. Local 1536 ('A'), I.B.E.W. Local 1536 ('G'), FOP Lodge 29, FOP Lodge 32, FOP Lodge 77 and~~, and the Employee Advisory ~~Team~~ Roundtable.

You may vote for one of the individuals listed below by placing an "X" on the line beside the person for which you wish to vote. Please use the enclosed addressed envelope to mail your ballot to the Election Commissioner's Office. The ballot may be mailed through the County inter-office mail.

Do not copy this ballot. Only an original of this ballot will be considered valid. All ballots must be received by the Election Commissioner no later than the close of business Friday, Date

<p>_____ Name #1 - Brief description of qualifications</p> <p>_____ Name #2 - Brief description of qualifications</p>

Election Commissioner Certification of Authenticity _____

KEATING | O'GARA

Gary J. Nedved
Paul J. Peter
Anne E. Winner
Jefferson Downing
Gary L. Young

Joel D. Nelson
Joel Bacon
Thomas P. McCarty
Tara L. Gardner-Williams

Milissa D. Johnson-Wiles
Brenna M. Grasz
Courtney R. Faller

OF COUNSEL:
Doug Peterson
EMERITUS:
Con M. Keating

November 14, 2023

VIA EMAIL

Barbara McIntyre
Lincoln-Lancaster County Human Resources Director
555 South 10th Street
Lincoln, Nebraska 68508
bmintyre@lincoln.ne.gov

RE: APPEAL OF CARRIE HUTSELL AND FOP #32

Dear Ms. McIntyre,

This firm represents Fraternal Order of Police, Lodge #32 and Corrections Officer Carrie Hutsell ("Grievants"). On November 9, 2023, Lancaster County Department of Corrections Director Brad Johnson issued Officer Carrie Hutsell a letter suspending her without pay for one (1) day. A true and correct copy of the disciplinary action letter is attached hereto.

Pursuant to Article 8, Section 2 of the bargaining agreement between Lancaster County and FOP #32, Grievants hereby give notice of their appeal of the suspension to the Personnel Policy Board, for the reason that the suspension of Officer Hutsell is: not supported by just cause; is not necessary to correct employee behavior; is not proportionate to the actions alleged; is not consistent with prior discipline; is not consistent with the work requirements and expectation of male employees; is not based upon the violation of an order that is reasonably related to the orderly, efficient, and safe operation of the Department's operations or performance that the Department might properly expect the employee; is not progressive; is not an evenhanded penalty; is discriminatory; fails to give consideration to mitigating factors; is arbitrary and capricious; and does not consider the employee's prior work history.

At the Lancaster County Department of Corrections, it is now Director Brad Johnson's *unwritten* requirement that female Corrections Officers walk through male inmates' shower and bathroom areas to perform safety and security checks. This

requires female officers to walk through these areas alone, in the presence of disrobed male inmates, without video monitoring. Female Officers are now required to do so even if male inmates object to their presence, and even if the female officer sees male inmates are naked through the window before entering the bathing and restroom area. Director Johnson has instituted this requirement despite numerous reports of inmates exposing their genitalia to female Officers in male housing units, often without being disciplined by the Department for their conduct.

Critically, Director Johnson's expectations for male Corrections Officers is **entirely different**. Director Johnson *prohibits* male Corrections Officers from even entering female inmates' housing pods without the presence of a female Corrections Officer, and male Corrections Officers are barred from entering female inmates' shower areas. Director Johnson's stated reason for this difference is that, in his experience, male Officers are more likely to sexually assault female Officers. Despite that rationale, Director Johnson appears wholly indifferent to the risk of female Officers being sexually assaulted by nude male inmates in non-video-monitored shower areas.

In September 2023, Officer Hutsell performed "manual" rounds—i.e., she made verbal or visual contact with male inmates in the shower and bathroom areas without walking completely through the area and scanning an electronic device ("puck") at the end of the shower area—at certain times in male shower/restroom areas because: male inmates noted they were uncomfortable with her presence in the shower area; Officer Hutsell saw nude male inmates standing in the shower area; and inmates invited Officer Hutsell into the shower area with them. Officer Hutsell documented all this in emails to her supervisor. On September 28, 2023, Officer Hutsell also sent an email to her supervisor voicing the following concerns:

I do not feel comfortable entering bathrooms when I could be grabbed and assaulted in the bathrooms. I also don't want to have an inmate accuse me of doing things to them while they are naked and showing and it becomes their word against mine. All times I either opened the door and looked in the bathrooms or was able to look above the door and see what was taking place in the bathroom. At no time did I just walk past the bathrooms and not monitor what was going on. I also spoke with [] all the inmates in the bathrooms through the doors ensuring that they were all able to speak and not in distress.

On or about October 16, 2023, Director Johnson proposed to suspend Officer Hutsell for one (1) day failing to scan the pucks in male shower/bathing areas.

Director Johnson held a pre-disciplinary hearing with Officer Hutsell and her representatives on October 24, 2023. During that meeting, Director Johnson acknowledged the stark difference in his expectations for male and female Officers with respect to conducting rounds in inmate shower and restroom areas. Director Johnson also disregarded concerns raised under the Prison Rape Elimination Act, 28 CFR § 115.15 ("PREA"). PREA states that correctional facilities "shall implement policies and procedures that enable inmates to shower, perform bodily functions, and change

clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks.”¹

Director Johnson also conceded nothing *prohibits* male Officers from doing rounds in female inmates’ showers but Director Johnson has decided to draw a “hard line” and prohibit males from doing so. Director Johnson also analogized this situation to his requirement that female Officers perform pat search on male inmates while male Officers are not required to pat search female inmates. He acknowledged that during such pat searches, female Officers are required to “feel” inmates’ genitalia. Director Johnson said he would require female Officers to do pat searches of inmates even if an inmate objected because he does not “really care what an inmate wants.” At the conclusion of the meeting, Director Johnson told Officer Hutsell: “You work here at a male facility. This is a requirement. It’s the expectation. I expect you to do it.” The Department of Corrections houses both males and females; it is not solely a “male” facility. Furthermore, there are far more male Officers than female Officers at the Department of Corrections. It is possible for Director Johnson to require male Officers (only) to do rounds in male shower and bathroom areas but Director Johnson has, instead, forced female Officers to do rounds in male inmates’ showers and bathrooms.

On November 9, 2023, Director Johnson suspended Officer Hutsell for one (1) day without pay, and warned her that a repeated “violation” could result in “more severe disciplinary action or discharge of [her] employment by the County.” Thus, Director Johnson has suspended Officer Hutsell because she did not perform an action—conducting rounds in the showers/bathrooms of the opposite sex—Director Johnson *prohibits* male Officers from doing. In doing so, Director Johnson discounted and disregarded all safety concerns Officer Hutsell and her representatives raised.

Sincerely,

/s/Thomas P. McCarty
Thomas P. McCarty

¹ There is nothing “incidental” about encountering naked men in a shower area.

LANCASTER COUNTY
EMPLOYEE SUSPENSION NOTICE

Carrie Hutsell
Name (Please Print)

300221
Oracle Person Number

November 9, 2023
Date

Corrections Officer
Classification

Corrections
Department

This is to officially notify you that you are suspended from your position for a period of 1 working day in accordance with Lancaster County Personnel Rule 11.2(d) or in accordance with a Labor Agreement, if applicable.

Period of Suspension:

To Begin: Date 11/29/2023 Time 0645

To End: Date 11/29/2023 Time 1515

You are to return to work: Date 11/30/2023 Time 0645

VIOLATION

What action or inaction on the part of the employee has given cause for the suspension: (Give complete details, including dates, witnesses, if applicable. Use additional pages, if necessary.)

1. Lancaster County Personnel Rule 11.2 (h)(5), "The employee has violated any department, division, or institution regulation or order..."; and
2. Lancaster County Department of Corrections Policy 2.7 (B) (1), "Employees are expected to conduct themselves at all times, both on and off duty, in a professional manner that shall reflect favorably on the Department and County."; and
3. Lancaster County Department of Corrections Policy 2.7 (B) (13), "Employees shall not neglect any required duty as outlined in their job description and shall abide by all departmental policies, post orders and similar legitimate job requirements."; and
4. Lancaster County Department of Corrections Policy 6.1 (A) (5), "A completed Safety and Security Round shall mean the Staff Member took sufficient time to survey the entire area to determine that all inmates are safe and well."; and
5. Lancaster County Department of Corrections Policy 6.1 (A) (6), "All Safety and Security Rounds will be properly documented, in accordance with approved procedures."; and
6. Lancaster County Department of Corrections Policy 6.1 (B) (1), "At a minimum, Correctional Officers will complete a round of their area of responsibility every 30 minutes"; and
7. Lancaster County Department of Corrections Facility Procedure 6.H.1 (A), "Ground Floor-Roving Officers will conduct a physical check of all dormitories (A1-F2) and the Laundry (unless completed by a PSW Officer) at least every 30 minutes"; and
8. Lancaster County Department of Corrections Facility Procedure 6.H.1 (I), "Safety and security checks will be documented by scanning the RFID buttons located in each dorm, cell and other area with the PDA scanners."; and
9. Lancaster County Department of Corrections Facility Procedure 6.H.1 (J), "If the PDA is not functioning, the officer will complete the following: a) A Supervisor will be notified of the malfunction."; and
10. Lancaster County Department of Corrections Facility Post Orders, "Ground Floor/Work Release Officers Post Orders", Section I (B), "The Ground Floor Officers will supervise the ground floor during their assigned shift. They will be aware for rules violation, breaches of security, and the safety and well-being of inmates and staff."; and
11. Lancaster County Department of Corrections Facility Post Orders, "Ground Floor/Work Release Officers Post Orders", Section II (A), "Ground Floor Officers will maintain the security of their assigned post and control of inmates at all times."; and
12. Lancaster County Department of Corrections Facility Post Orders Section II (F), "Ground Floor Officers are responsible for making rounds every 30 minutes in dorms A1-F1 (See Procedure 6.H.1)".

The facts that have been reported to me are as follows:

On September 8, 2023, you were assigned as Ground Floor Rover 1. At approximately 0910 hours, you informed Sgt. Manning that you had performed manual safety and security rounds in the inmate restrooms in A1 at 0826 and 0903 hours and in A2 at 0730 hours. You stated that you did not perform a safety and security round in the inmate restroom in A1 at 0758 hours. You told Sgt. Manning that you sent him two emails at 0808 and 0842 hours stating the following: A2 – 0730 – 4 guys in the bathroom; A1 – 0800 – someone getting out of shower; A1 – shower – naked man in bathroom.

On September 27, 2023, you were counseled by Sgt. Manning regarding the improper completion of manual rounds in the A1 and A2 restrooms. At that time, you were instructed that you were expected to complete your safety and security rounds according to Lancaster County Department of Corrections policy and procedure using the PDA.

On September 28, 2023, you were assigned as Ground Floor Rover 1. You again completed multiple improper/incomplete safety and security rounds in the male restrooms in the A1, A2, C1, and D2 dorms throughout the course of your shift. On September 29, 2023, you sent an e-mail to Sgt. Wrinkle containing your perceived justifications for completing improper/incomplete safety and security rounds in these areas.

Corrective action to be taken by employee to avoid more severe disciplinary action:

In the future, you will conduct safety and security rounds according to policy and procedure.

YOU ARE ADVISED THAT A SIMILAR OR RELATED VIOLATION CAN RESULT IN MORE SEVERE DISCIPLINARY ACTION OR DISCHARGE OF YOUR EMPLOYMENT BY THE COUNTY. AS APPLICABLE, REFER TO THE APPROPRIATE UNION CONTRACT OR LANCASTER COUNTY PERSONNEL RULES FOR GUIDELINES IF YOU FEEL YOU HAVE BEEN SUSPENDED UNJUSTLY.

SIGNATURES:

Supervisor(s):

Dale Z. Bitt II

Date: 11/8/23

Department Head:

P. C. Gray
Bruce Johnson

Date: 11-08-2023

Date: 11-9-23

Employee:

A. H.

Date: 11/9/23

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Rev: 07/2021